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5 **UNITED STATES DISTRICT COURT**
6 **NORTHERN DISTRICT OF CALIFORNIA**
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8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 PEDRO ADAN PUEBLA-ALBITER,

12 Defendants.
13

Case No. 16-cr-0125 LHK (NC)

ORDER AFTER DETENTION
HEARING

14
15 Defendant Pedro Adan Puebla-Albiter appeared with his counsel Thomas J. Ferrito
16 before this Court for a detention hearing on December 10, 2018. This order chronicles the
17 procedural posture of the hearing and the decision of the Court not to amend the detention
18 decision as to the defendant.

19 The defendant initially appeared in the Central District of California and was ordered
20 detained by Magistrate Judge Douglas McCormick. He was then transported in custody to
21 this District. At his second appearance in this District, Puebla-Albiter requested a bail
22 hearing and the prosecution did not object. A bail study was prepared by pretrial services.

23 On the evening of Thursday December 6, the prosecution filed a motion at ECF 324
24 to vacate the detention hearing. The prosecution argued an interpretation of 18 U.S.C. §
25 3142(f) that only the judicial officer who conducted the initial detention hearing, Judge
26 McCormick in the Central District of California, could reopen the detention hearing if new
27 material information was presented by the defense. I was unpersuaded by the prosecution's
28 statutory interpretation. And I was also concerned by the practical consequence of the

1 argument: either a compelled transport of the defendant back to Central California for a
2 single hearing, or a detention hearing before the trial judge. I denied the motion to vacate.

3 Next, I considered whether “information exists that was not known to the movant at
4 the time of the [initial detention] hearing and that has a material bearing on the [detention or
5 release] issue.” 18 U.S.C. § 3142(f). I determined that the defendant met this burden, based
6 on new information provided in the pretrial services report.

7 Finally, I considered the information in the pretrial services report, in Judge
8 McCormick’s detention decision, and as presented by the parties at the hearing. I
9 determined that there was no factual basis to modify the order of detention. Consequently, I
10 did not modify the order of detention issued by Judge McCormick.

11 IT IS SO ORDERED.

12 Date: December 21, 2018


Nathanael M. Cousins
United States Magistrate Judge